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RECENT IMPORTANT DECISIONS.

AGENCY—FIDUCIARY RELATION—RIGHT OF PRINCIPAL TO AGENT'S ACQUISITIONS—PATENTS FOR AGENT'S INVENTIONS.—Complainant, who owned substantially all of the patents controlling a certain industry, employed defendants to aid in promoting it, particularly by securing the formation of corporations which would take a license to manufacture under these patents and pay a royalty. Defendants were to be paid by a share of the royalty. While engaged in this undertaking and because they had their attention drawn to the matter while so engaged, the defendants conceived a number of important improvements and obtained valuable patents therefor. Complainant contended that these patents belonged to him as the fruits of the agency, and filed a bill in chancery to compel the transfer of the patents to him. *Held*, that while complainant could not have the patents himself merely by virtue of the relation, the contract created a sort of partnership relation between complainant and defendants—a common enterprise—and that defendants held in trust these patents for this common enterprise, to be shared in the proportions in which complainant and defendants were interested: *National Wirebound Box Co. v. Healy*, 110 C. C. A. 613, 189 Fed. 49.

Up to this time it had been uniformly held that inventions made by a servant or agent, even though he learned the situation because of his employment, did not belong to the master or principal simply because of the relation and in the absence of a contract that he should have them: *Dalzell v. Dueber Co.* 149 U. S. 315; *Solomon v. United States*, 137 U. S. 342; *Hapgood v. Hewitt*, 119 U. S. 226; *American Circular Loom Co. v. Wilson*, 108 Mass. 182, 84 N. E. 133, 126 Am. St. R. 409; *Pressed Steel Car Co. v. Hansen*, 71 C. C. A. 207, 137 Fed. 403, 2 L. R. A. (N. S.) 1172, and other cases therein cited. The principal case does not purport to differ from these, but sought to deduce from the contract between the parties and certain verbal agreements, which complainant contended had been made, a sufficient contract to justify the conclusion that the inventions belonged to the parties collectively for the furtherance of the common enterprise. "Persons are not to be deprived of their inventions merely because to retain them, under the circumstances, may appear unconscionable. The circumstances must include a contemplated assignment as their conscious act and deed. But such a conscious act and deed need not have taken the form of a contract that, standing alone, is specifically enforceable. Such conscious act and deed is sufficiently shown, it seems to us, when it is made to appear that, consciously and knowing the effect of what they are doing, they became parties to a lawful undertaking that, to carry out the undertaking as an entirety, expressly involved on their part such an assignment." The case was an entirely unique one, and the method of dealing with it was also unique, though perhaps as equitable as any that could be devised.